

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

PLAINTIFFS' POSITION RE: TIMING OF SUPPLEMENTAL BRIEFING

On Monday, July 10, 2023, the Court ordered the parties to submit their position on the timing of supplemental briefing in this case after the Fifth Circuit's opinion issued on Thursday, July 6, 2023. Dkt. 245. Specifically, the Court requested the parties' position on "whether that supplemental briefing should be filed presently, or whether there is some reason to wait for the mandate to issue first." Dkt. 245.

Plaintiffs agree that supplemental briefing regarding the Fifth Circuit's opinion is warranted. But at this time, Plaintiffs respectfully request that the supplemental briefing take place after issuance of the mandate, which is set for August 28, 2023. Undersigned counsel for Plaintiffs is currently out of state on vacation with her family and has not yet been able to discuss the next steps in the case with co-counsel and the Plaintiffs. Undersigned counsel would therefore appreciate the additional time to confer with both clients and co-counsel to determine whether further proceedings in the Fifth Circuit are warranted and to allow for the drafting of the supplemental briefing.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court wait until after issuance of the Fifth Circuit's mandate to require supplemental briefing.

Respectfully submitted this 11th day of July, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2023, I electronically filed the foregoing document through the Court's ECF system and will serve a copy on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Heather Gebelin Hacker
HEATHER GEBELIN HACKER